

## COMMONWEALTH OF VIRGINIA TERMS AND CONDITIONS

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- A. **APPLICABLE LAWS AND COURTS:** This grant agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the grantee are encouraged to resolve any issues in controversy arising from the award of the grant using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). The grantee shall comply with all applicable federal, state and local laws, rules and regulations.
- B. **ANTI-DISCRIMINATION:** By accepting a grant award, project sponsors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the grant on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every grant award over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this grant, the grantee (contractor) agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such organization is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- 2. The grantee will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- C. **AUDIT:** The grantee shall retain all books, records, and other documents relative to this grant agreement for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- D. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this grant agreement.
- E. **AWARD OF GRANT:** Selection shall be made of project sponsors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the solicitation. Negotiations may be conducted with the project sponsors so selected, as deemed necessary. Price shall be considered, but need not be the sole determining factor. The Commonwealth may cancel solicitations or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, § 2.2-4359D).
- F. **CHANGES TO GRANT AGREEMENT:** Changes can be made to the grant agreement in the following ways:
  - 1. The parties may agree in writing to modify the scope of the grant agreement. An increase or decrease in the price of the grant resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the grant agreement.
  - 2. The granting agency may order changes within the general scope of the grant agreement at any time by written notice to the grantee. Changes within the scope of the grant agreement include, but are not limited to, things such as services to be performed and the place of delivery or installation. The grantee shall comply with the notice upon receipt. The grantee shall notify the granting agency, in advance, if additional costs may be incurred as the result of such order and shall give the granting agency a credit for any savings. Said compensation shall be determined by mutual agreement between the parties in writing.
- G. **ETHICS IN PUBLIC CONTRACTING:** By accepting a grant award, grantees certify that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other project sponsor, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

- H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS:** Failure to submit a proposal on the official state application form and following proposal submission guidelines provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a proposal.
- I. **NONDISCRIMINATION OF PROJECT SPONSOR:** Project sponsors shall not be discriminated against in the solicitation or award of grants under this program because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment.
- J. **PAYMENT:** Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice is submitted. [*The Attachment B included with this Agreement, completed and signed, services as the project invoice.*] A grantee awarded a grant under this program is hereby obligated: (1) To pay the subcontractor(s) within seven (7) days of the grantee's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the grant; or (2) To notify the agency and the subcontractor(s), in writing, of the grantee's intention to withhold payment and the reason.
- K. **QUALIFICATIONS OF PROJECT SPONSORS:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the project sponsor to perform the services and the project sponsor shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such project sponsor fails to satisfy the Commonwealth that such project sponsor is properly qualified to carry out the obligations of the proposal and to provide the services and/or furnish the goods contemplated therein.
- L. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test / inspection it may deem advisable to assure goods and services conform to specifications.
- M. **RENEWAL OF GRANT AGREEMENT:** This grant agreement may be renewed by the Commonwealth for successive funding periods under the terms and conditions of the original agreement. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each agreement period.
- N. **SMALL, WOMEN, AND MINORITY-OWNED BUSINESSES SUBCONTRACTING:** Where it is practicable for any portion of the awarded grant to be subcontracted to other suppliers, the contractor is encouraged to offer such business to small, women, and/or minority-owned (SWAM) businesses.